# REGULAR MEETING June 14, 2004

The Regular Meeting of the Annapolis City Council was held on June 14, 2004 in the Council Chamber. Mayor Moyer called the meeting to order at 7:30 p.m.

Present on Roll Call: Mayor Moyer, Aldermen Hammond, Tolliver, Kelley, Cordle,

Fox, Cohen, Alderwomen Hoyle, Carter

Staff Present: City Attorney Spencer, Planning & Zoning Director Arason

- Mayor Moyer presented a Glittering Gems of Annapolis Award to Ned Hall.
- Alderwoman Carter moved to add R-11-04 to the agenda. Seconded. CARRIED on voice vote.
- Alderman Cordle moved to withdraw O-18-04 and R-9-04. Seconded. CARRIED on voice vote.
- Alderman Hammond moved to approve the Journal of Proceedings for May 10, 2004 and May 24, 2004. Seconded. CARRIED on voice vote.

# PETITIONS, REPORTS AND COMMUNICATIONS

Fred Delevan, Esq., 170 Jennifer Road, Suite 240, Annapolis, Maryland 21401, representing Union Realty Partners, spoke in favor of O-7-03.

#### LEGISLATIVE ACTION

#### **ORDINANCES**

- O-7-03 For the purpose of establishing a Housing Assistance Trust Fund to provide a more flexible funding source to assist home buyers who may not qualify under existing housing programs; and matters generally relating to said fund.
  - ◆Alderman Tolliver moved to withdraw O-7-03 Amendment #1 on second reading. Seconded. CARRIED on voice vote.
  - ◆Alderwoman Hoyle moved to amend O-7-03 as follows:

On page 1, strike line 1 and all that follows through page 10, line 16, and insert the following:

# CITY COUNCIL OF THE CITY OF ANNAPOLIS

## ORDINANCE NO. O-7-03 Amendment #2

Introduced by Mayor Moyer
Alderwoman Hoyle
Alderwoman Carter
Alderman Fox
Alderman Cohen

AN ORDINANCE concerning

# Establishing a Housing Assistance Trust Fund Affordable Housing

FOR the purpose of establishing a Housing Assistance Trust Fund to provide a more flexible funding source to assist home buyers who may not qualify under existing

housing programs; and matters generally relating to said fund increasing affordable housing opportunities for sale or for rent for Annapolis residents of low and moderate income by creating an inclusionary housing requirement for new developments in the City of Annapolis, providing for expedited review and processing of all Residential Planned Development, containing MPDUs, and all matters relating to an inclusionary housing requirement.

\* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \* \*

BY by adding new
Title 20
Chapter 20.30
Code of the City of Annapolis
(1996 Edition and Supplement)

SECTION I: BE IT ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that the Code of the City of Annapolis shall read as follows:

#### Chapter 20.30

# **Moderately Priced Dwelling Units**

Section	ons:	
	20.30.010	Purpose and Intent. Purpose and intent.
	20.30.020	Housing Assistance Trust Fund. Definitions.
	20.30.030	Definitions. Applicability.
	20.30.040	Applicability. Application and inclusionary zoning plan.
	20.30.050	Compliance.
	20.30.060	Adjustments for MPDU Qualification. Contribution in lieu of
		developing MPDUs.
	20.30.070	Constructions of MPDUs. Homeownership Assistance Trust
		<u>Fund.</u>
	20.30.080	Certificate of Eligibility. Adjustments for MPDU qualification.
	20.30.090	Payment of Homeowner Associations Fees. Constructions of
		MPDUs.
	20.30.100	Procedures for Sale and Rental of MPDUs. Certificate of
		Eligibility.
	20.30.110	Restrictions on Resale and Rent. Establishment of initial sales
		price of MPDUs.
	20.30.120	Density Bonus. Payment of homeowner associations fees.
	<u> 20.30.130</u>	Procedures for sale and rental of MPDUs.
	<u> 20.30.140</u>	Restrictions on resale and rent.
	<u> 20.30.150</u>	Restriction on use of Homeownership Assistance Trust Fund
	<u>20.30.160</u>	Density bonus.

# Sec. 20.30.010 Purpose and Intent. Purpose and intent.

The purpose of <u>these regulations</u> this chapter is to implement the housing goals of the  $\underline{eC}$  ity of Annapolis by:

A. Requiring that developers of new residential developments provide moderately priced dwelling units (MPDUs) as a part of the development's approval and by providing an expedited review and approval process for any Planned Residential Development containing MPDUs in conformance with Section 20.30.050. Creating a Housing Assistance Trust Fund to provide a more flexible funding source to assist home buyers and renters who may not qualify under existing housing programs.

- B. Ensuring that housing options continue to be available to low and moderate income residents, and for special needs populations, including, but not limited to, the elderly.
  - C. Retaining opportunities for people that work in the city to live in the city.
- D. Amending the development regulations to include requirements for moderately priced dwelling units.
- E. Ensuring that private developers constructing <u>moderately priced housing MPDU's</u> under this chapter incur no loss or penalty as a result thereof, and have reasonable prospects of realizing a profit on such units by providing density bonuses and incentives.
- F. Encouraging the redevelopment and improvement of existing buildings by using these structures for moderately priced housing.

# Sec. 20.30.020 Housing Assistance Trust Fund.

The Housing Assistance Trust Fund may be utilized for any of the following purposes:

- A. Provide funds to nonprofit housing developers to purchase properties at tax sales or foreclosures.
  - B. Provide funds to nonprofits to purchase rental property that is occupied.
- C. Provide settlement expenses, down payment and mortgage write-downs to an eligible person and to low/moderate city employees who would like to live in the city.
- D. Provide funds for the production of new housing, preservation of existing federally assisted housing, and the rehabilitation of existing market affordable housing.
  - E. Provide rental assistance to qualified persons.
  - F. Provide funds for administrative costs.

#### Sec. 20.30.030 **20.30.020** Definitions.

In general, in this chapter, unless another meaning is plainly intended, the following words have the meanings indicated.

- A. "Applicant" means any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, who <u>either</u> submits for subdivision approval <u>for a residential "for sale" project</u> under Chapter 20 <u>or is developing rental property</u>, and which plan provides for the development of a total of ten (10) or more dwelling units in one or more stages of development regardless of whether any land has been transferred to another party.
  - B. "At one location" means all adjacent land of the applicant if:
  - 1. The property lines are contiguous or nearly contiguous at any point;
- 2. The property lines are separated only by a public or private street, road, highway or utility right-of-way, or other public or private right of way at any point; or
- 3. The property lines are separated only by other land of the applicant which is not subject to this chapter at the time of any permit, site plan, development, or subdivision application by the applicant.

- C. "Certificate of eligibility" means a certificate issued by the <u>department of planning and zoning</u> Department of Planning and Zoning and signed by the person seeking to own or rent an MPDU and the planning and zoning director that certifies that the person is qualified to buy or rent an MPDU.
- D. "Consumer Price Index" means the latest published version of the Consumer Price Index for All Urban Consumers (CPI-U) of the U.S. Department of Labor for the Baltimore metropolitan area.
- E. "Control period" means the time an MPDU is subject to either resale price controls and owner occupancy requirements or maximum rental limits. The control occupancy period is ten (10) years for sale units and twenty (20) years for rental units, and begins on the date of initial sale or rental. If a sale or rental MPDU is sold to an eligible person within ten (10) years after its initial sale or rental, the unit must be treated as a new MPDU and a new control occupancy period must begin on the date of the sale or rental.
  - <u>F.E.</u> "Date of original sale" means the date of settlement for purchase of a MPDU. "Date of original rental" means the date of the first lease agreement for a MPDU.
- GF.. "Date of original rental" means the date of the first lease agreement for a MPDU. "Date of original sale" means the date of settlement for purchase of a MPDU.
  - H.G. "Eligible person" means a person or household:
- 1. Whose <u>household median</u> income is <u>100%</u> <u>80%</u> or less than the family median income for the Baltimore <u>MSA</u> <u>Metropolitan Statistical Area (MSA)</u>, with adjustments for household size, as reported by the United States Department of Housing and Urban Development (HUD); <u>and</u>
- 2. Who holds a valid certificate of eligibility that entitles the person or household to buy or rent an MPDU; and
- 3. Who has not owned any residential property during the previous five (5) years. Who does not currently own a home; and
- 4. Is a City resident, or in the employ of the City of Annapolis beyond their probationary period, or teaches in a pre-school, elementary, middle or high school within the city limits.
- H. "Expedited Review Process" means an application for a Planned Residential Development containing MPDUs in conformance with Section 20.30.050 shall be processed as a priority review project consistent with Section 20.30.010. Prior to the submittal of a Preliminary or Final Plan, the applicant and the Director of Planning and Zoning shall agree to a proposed schedule for both the applicant's submittals of Plans and the Department of Planning and Zoning's reviews of those submittals. The schedule shall establish reasonable timelines for all parties and all parties will endeavor in good faith to meet the timelines.
- I. "Housing Homeownership Assistance Trust Fund" means a fund established under Chapter 20.30 in order to achieve the purposes of 20.30.070 to be administered by the department of planning and zoning Department of Planning and Zoning. Whose purpose is to provide a more flexible funding source to assist home buyers and renters. Who may not qualify under existing housing programs.
- J. HUD's "Fair Market Rents" (FMRs) shall mean the FMRs for the Baltimore MSA as published from time to time by HUD.

- <u>J.K.</u> "Moderately Priced Dwelling Unit," or "MPDU," means a dwelling unit which:
- 1. Is offered for sale or rent to eligible persons or to the <u>department of planning</u> <u>and zoning</u> <u>Department of Planning and Zoning</u> and sold or rented under this chapter;
- 2. Is offered for a maximum sales price <u>based on number of bedrooms</u>, to be determined by the <u>department of planning and zoning</u> Department of Planning and Zoning by: under Section 20.30.110 of this chapter-
  - 3. Is offered for a monthly rental price of:
- a. 100% of HUD's fair market rents if the landlord pays all utilities (heat, water, sewer, electric, and trash); of
- <u>b.</u> 80% of Baltimore MSA, HUD fair market rents if the landlord does not pay all utilities (heat, water, sewer, electric, and trash).
- <u>b.</u> 80 percent of Baltimore MSA, HUD fair market rents if the landlord does not pay all utilities (heat, water, sewer, electric, and trash).
- a. First, calculating the amount of monthly income available for mortgage principle and interest by using the formula: (median income for three person household) x (target income range) x (portion of household income available for housing) / (12 months) (property taxes) (hazard insurance);
- <u>b.</u> <u>Second, calculating a monthly payment for a thirty (30) year term mortgage</u> at market interest rate, ensuring that the monthly payment is less than or equal to the <u>calculation in subsection (a):</u>
- 3. The sales price of a which shall be recalculated each year by the department of planning and zoning by taking the maximum bases prices and adjusting them up or down according to changes in the CPI
  - 4.3. Is offered for a monthly rental price of:
- a. 100% of HUD's fair market rents if the landlord pays all utilities (heat, water, sewer, electric, and trash); or
- b. 80% of HUD's fair market rents if the landlord does not pay all utilities (heat, water, sewer, electric, and trash).
- <u>5.4.</u> And, the monthly rental price of which shall be recalculated each year by the department of planning and zoning based on HUD's recalculation of fair market rents.
- L. "Occupancy period" means the time an MPDU is subject to either resale price controls and owner occupancy requirements or maximum rental limits. The control occupancy period is ten (10) years for sale units and twenty (20) years for rental units, and begins on the date of initial sale or rental. If a sale or rental MPDU is sold to an eligible person within ten (10) years after its initial sale or rental, the unit must be treated as a new MPDU and a new control occupancy period must begin on the date of the sale or rental.
  - <u>E.M.</u> "Residential Development" includes:
- 1. <u>all proposed subdivisions, rental property, condominiums, cooperatives, and</u> new mixed use developments with a residential component:

- 2. a development that is a rehabilitation of an existing multiple family residential structure that increases the number of residential units from the number of units in the existing structure by four or more dwelling units;
- 3. part of the conversion of a rental property to a condominium or cooperative; and
- 4. a development that will change the use of an existing building from a nonresidential to a residential use.

#### Sec. 20.32.040 20.30.030 Applicability.

- A. Compliance with the provisions of this chapter shall be required as a condition of approval for all residential development except that compliance with the provisions of this chapter shall not be required as a condition of approval for:
- 1. A planned development, or any residential development which requires special exception approval, for which special exception approval has been obtained on or before the effective date of Ordinance No. O-7-03; or
- 2. A residential development not requiring special exception approval and for which record plat approval has been obtained on or before the effective date of Ordinance O-7-03.
- B. An applicant may not avoid this chapter by submitting phasing of new development in increments below the thresholds <u>above established in Section 20.030.02</u> <u>A.</u>, the first being after the effective date of this chapter.
- C. An applicant may submit a request for residential development below the thresholds set forth <u>above</u> in <u>Section 20.030.02 A</u>, but the applicant must agree in writing that when unit thresholds are reached, the applicant will meet the requirements of this chapter.

# 20.30.040. Application and inclusionary housing plan.

- A. If compliance with the provisions of this chapter is required under Section 20.30.030. A, a final subdivision plan may not be approved, a final subdivision plat may not be signed, or a building permit be issued unless the requirements of this chapter are met.
- B. Before a covered development that will contain MPDUs may be approved by the Director of Planning and Zoning, an applicant shall enter into an agreement with the city that:
- 1. Requires a specific number of MPDUs to be constructed on a time schedule approved by the director of planning and zoning;
  - 2. Requires each single-family MPDU have two or more bedrooms;
- 3. Requires that the number of efficiency and one-bedroom MPDUs in a covered development of multi-family dwelling units may not exceed the ratio that market-rate efficiency and one-bedroom units respectively bear to the total number of market rate dwelling units in the development;
- 4. <u>details the number, the, location and sequencing plan for all of the MPDUs in order to insure that:</u>
- <u>a.</u> <u>the number of MPDUs which are either for sale or rent are built at the same</u> rate as the market eased dwelling units; and

- <u>b.</u> <u>the MPDUs are spread throughout the development and not clustered in one</u> or more areas;
- <u>5.</u> requires that the MPDUs be architecturally compatible and similar in general exterior appearance and scale with market rate dwelling units constructed in the development;
- <u>6.</u> allows the applicant to reduce the interior amenity level of the MPDUs, provided:
  - a. the units conform to applicable housing and building codes;
- <u>b.</u> <u>the reduction to the interior amenity level does not include improvements related to energy efficiency, including mechanical equipment, plumbing, insulation,: windows, heating and cooling systems;</u>
- 7. requires compliance with the requirements of this title and the agreement for the occupancy period;
  - 8. runs with the land for the occupancy period;
- 9. contains any other information the director of planning and zoning determines to be necessary to ensure the applicant's compliance with this title; and
- 10. is noted on the final subdivision plat and is recorded in the land records of the city.

# <del>Sec. 20.32.050</del> 20.30.050 Compliance.

- A. At least <u>10% 12%</u> of the units in a <u>for sale</u> residential development subject to this chapter shall be designated as MPDUs and meet all requirements of this chapter.
- B. At least 6% of the units in a rental development subject to this chapter shall be designated as MPDUs and meet all the requirements of this chapter.
- B. <u>C.</u> Compliance with this chapter may be achieved through either of or a combination of the following options as follows:
- 1. Constructing MPDUs. Compliance may be achieved by constructing MPDUs on the site where the residential development is to occur or off the site where the residential development is to occur if the planning commission Department of Planning and Zoning has approved the off-site location based on the location's access to public amenities and compatibility of surrounding uses and densities.
- 2. Paying fees in lieu of constructing MPDUs. In lieu of constructing MPDUs, a fee of one percent of the total market value of the dwelling units in a subdivision may be paid by an applicant.
  - 3. 2. Donation of land to the city.
- a. The city may accept donations of land in fee simple, on or off-site, that the department of planning and zoning determines are suitable for the construction of MPDUs. The value of donated land shall be equal to or be greater than the value of the fee in lieu payment required by this chapter.
- b. The department of planning and zoning may require, prior to accepting land as satisfaction of the requirements of this chapter, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value.

- c. The land shall be donated into the Housing Assistance Trust Fund.
- C. Compliance with this chapter also shall require that:
- 4.2. The applicant provides covenants, recorded among the land records of Anne Arundel County, that states that the unit will continue to be a MPDU for the control occupancy period, in compliance with this chapter; and
- 2. 3. The applicant signs a promissory form, which includes a calculation of MPDUs required to comply with this chapter, in which the applicant agrees to meet the requirements of this chapter. This form shall be kept on file at the Department of Planning and Zoning.

# Sec. 20.30.60 Contribution in lieu of developing MPDUs

- A. In exceptional circumstances, the Director of Planning and Zoning may permit an applicant to make a contribution to the Homeownership Assistance Trust Fund or donate land in lieu of developing MPDUs.
  - B. An applicant shall:
- 1. Apply to the Director of Planning and Zoning for permission to make a contribution authorized by subsection (A) of this section
- 2. Provide any information on or documents that the Department of Planning and Zoning deems necessary in order to determine whether to grant permission; and
- 3. Prove to the satisfaction of the Director of Planning and Zoning that exceptional circumstances exist.
  - C. For the purposes of this section, exceptional circumstance means:
- 1. In a proposed subdivision or development, an individual package of resident services and facilities to be provided to all households would cost the occupants of the MPDUs so much that it is likely to make the MPDUs effectively unaffordable by eligible households:
- 2. Because of topography or other physical features, or existing land use laws, ordinances and regulations, the provision of the MPDUs required by this title would make the development of the subdivision or development economically infeasible; or
- 3. No other suitable site for development, or existing MPDUs eligible for rehabilitation, are located in the same or nearby subdivisions, parcels, lots or other developments.
  - D. In lieu of constructing MPDUs the City may either
- 1. Accept a fee of two percent of the total value of construction costs of the dwelling units as evidenced by the dollar amount on the building permit application for a residential development to be paid by an applicant to the Homeownership Assistance Trust Fund; or
- 2. Accept donations of land in fee simple, on or off-site, that the Department of Planning and Zoning determines are suitable for the construction of MPDUs. The value of donated land shall be equal to or be greater than the value of the fee in lieu payment required by this chapter.
  - 3. In the event that an applicant cannot take advantage of the bonus density

provisions of this Chapter, such event shall be considered as an "exceptional circumstance" entitling the applicant to satisfy the requirements of this Chapter by payment of a "fee in lieu" of providing MPDU units.

- E. The Department of Planning and Zoning may require, prior to accepting land as satisfaction of the requirements of this chapter, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value.
  - F. The land shall be donated into the Homeownership Assistance Trust Fund.

#### Sec. 20.30.070 Homeownership Assistance Trust Fund.

- A. The Homeownership Assistance Trust Fund shall be used to provide homeownership opportunities to eligible persons or households under Section 20.30.020 G.
- B. The fund shall be administered by the Department of Planning and Zoning in accordance with this Chapter and funds shall only be available for use by nonprofit developers and or government agencies.
- C. Any Homeownership Assistance Trust Fund monies received shall be placed in a segregated account and shall be used to provide funds to nonprofit developers or governmental agencies to.
- 1. Purchase land and or buildings for other affordable housing that would be provided to persons that meet the eligibility criteria for purchasing or renting MPDUs.;
- 2. Provide settlement expense, down payment and mortgage write down assistance to eligible persons or households;
  - Construct for sale housing units;
  - 4. Purchase and or rehabilitate rental housing for conversion to homeownership;
  - 5 Rehabilitate residential units including owner occupied residential units;
  - 6 Provide funds to match other state or federal homeownership programs;
  - Provide funds for administrative costs...

#### Sec. <del>20.32.060</del> 20.30.080 Adjustments for MPDU Qualification.

If the planning commission Department of Planning and Zoning finds that conditions of the design, construction, pricing, or amenity package of an MPDU project will lessen the ability of eligible persons to afford the MPDUs, the planning commission Department of Planning and Zoning, may eliminate or modify those conditions or other costs that reduce the affordability of the MPDUs.

#### Sec. 20.32.070 20.30.090 Constructions of MPDUs.

#### A. Integration.

- 1. MPDUs within market rate developments shall be integrated with the overall development plan and shall be generally consistent in exterior design, scale and appearance with other units in the proposed development. The following criteria may be considered in determining whether the requirements of this paragraph have been met.
  - a. No existing or proposed physical barriers may be located between market

#### rate units and MPDUs.

- b. The MPDUs shall be located within reasonable proximity of proposed marketrate units.
- c. The MPDUs of a particular housing type (e.g., multi-family or single-family) shall be reasonably blended with market rate units of the same type.
- 2. Consistent with the purpose and intent of this chapter, the planning commission Department of Planning and Zoning may authorize an applicant to increase the sale price of a MPDU by no more than 10%. However, no increase shall be allowed unless the planning commission Department of Planning and Zoning finds, in exceptional cases, that a price increase is necessary to achieve compliance with paragraph (1) above.
- B. Phasing. Where feasible, MPDUs shall be provided coincident to the development of market-rate units, but in no event shall the development of MPDUs be delayed beyond the schedule below.

Percentage of Market Rate Units	Percentage of MPDUs
Up to 30%	None required
30% plus 1 unit	At least 10%
Up to 50%	At least 30%
Up to 75%	At least 50%
Up to 90%	100%

#### Sec. 20.32.80 20.30.100 Certificate of Eligibility.

- A. The department of planning and zoning Department of Planning and Zoning shall grant a certificate of eligibility to any person who meets the definition of eligible person.
- B. The department of planning and zoning Department of Planning and Zoning shall annually monitor occupants of rental MPDUs created pursuant to this chapter. Where the department of planning and zoning Department of Planning and Zoning determines that an occupant no longer qualifies as an eligible person, the Department of Planning and Zoning shall notify the person that subject to the terms and conditions of the tenant's existing lease, the rental MPDU shall be vacated within one year six months of notification in order to make the unit available to an eligible person.

## Section 20.30.110 Establishment of initial sales price of MPDU's

The initial sales price of the MPDU's shall be set annually within 30 days of the publication of the updated information for the SMSA. The sales price may not exceed the affordability of a family of four based on 80% of the median income for the MSA, assuming market rate interest with no more than 30% of the annual gross household income being applied toward the cost of housing.

# Sec. 20.32.090 20.30.120 Payment of Homeowner Associations Fees.

Residents of an MPDU shall pay an equal share of homeowners' association fees or similar costs as non-MPDU units.

#### Sec. 20.32.100 20.30.130 Procedures for Sale and Rental of MPDUs.

- A. Procedures for Sale or Rental of MPDUs.
- 1. Every MPDU required under this chapter must be rented or sold to eligible

persons to be used for his or her own residence.

- 2. Before offering any MPDUs for sale or rent, the applicant must notify the department of planning and zoning Department of Planning and Zoning of the proposed offering and the date on which the applicant will be ready to begin marketing to eligible persons. The notice must include:
  - a. Whether the units will be sold or rented;
  - b. The number of units offered;
  - c. The number of bedrooms;
  - d. The floor area for each unit type;
- e. A description of the amenities offered in each unit and a statement of the availability of each unit for sale or rent;
  - f. A vicinity map of the offering; and
- g. Other information or documents as the <u>department of planning and zoning</u>

  <u>Department of Planning and Zoning</u> finds necessary to determine compliance with this chapter. This notice by the <u>Department of Planning and Zoning shall</u> be issued within 30 days of the date from which the applicant first submitted its notice to commence marketing.
- 3. The department of planning and zoning Department of Planning and Zoning will maintain a list of eligible persons and must notify eligible persons by mail and by newspaper prior to the start of the marketing period.
- 4. An applicant must not sell or lease rent any unit to a qualified person as defined in this chapter until said person has obtained without first obtaining a certificate of eligibility issued by the department of planning and zoning Department of Planning and Zoning from the buyer or lessee, unless the buyer is the department of planning and zoning. A copy of each certificate must be maintained on file by the department of planning and zoning. Department of Planning and Zoning.
- 5. Ninety (90) days after the start of the marketing period, the department of planning and zoning Department of Planning and Zoning may purchase and for sale MPDU if no eligible person has entered into a purchase agreement or contracted to buy that MPDU. The department of planning and zoning Department of Planning and Zoning shall only rent or sell the MPDU to an eligible person.
- 6. Every buyer or renter of an MPDU must occupy the unit as his or her primary residence during the control period. Each buyer and renter must certify before taking occupancy that he or she will occupy the unit as his or her primary residence during the occupancy period. The Director of Planning and Zoning may require an owner who does not occupy the unit as his or her primary residence to offer the unit for resale to an eligible person under the resale provisions of Section 20.30.140. —eligible person buying or renting an MPDU must occupy the unit as his or her primary residence during the control occupancy period. If the department of planning and zoning Department of Planning and Zoning finds that an owner of an MPDU is not occupying the dwelling unit as their primary residence, the department of planning and zoning Department of Planning and Zoning may assess a monthly fee equal to the HUD fair market rent for the MPDU. Every MPDU required under this chapter must be offered to the general public for sale or rental to a good-faith purchaser or renter to be used for his or her own primary residence, except units offered for sale or rent to a non-profit corporation, whose purpose is to provide housing for persons of moderate income.

- 7. An owner of an MPDU may not rent the unit unless the renter is an eligible person, and the rental is approved in writing by the department of planning and zoning Depart ment of Planning and Zoning at the beginning of each rental period annually.
- 8. Any rent obtained for a MPDU that is rented to an ineligible person must be paid into the Housing Homeownership Assistance Trust Fund by the owner within ninety (90) days after the department of planning and zoning Department of Planning and Zoning notifies the owner of the rental violation. Any amount unpaid after ninety (90) days is grounds for the department of planning and zoning Department of Planning and Zoning to assess a monthly fee that is equal to the HUD fair market rent for the MPDU.

# Sec. 20.32.110 20.30.140 Restrictions on Resale and Rent.

- A. Restrictions on Resale.
- <u>1.</u> During the <u>control</u> <u>occupancy</u> period, no MPDU shall be resold except as <del>an MPDU as herein defined.</del> follows:
- 2.1. A person who rents a MPDU and lawfully occupies it when the unit is offered for sale may buy the dwelling unit, regardless of the person's income at the time of sale, if that person was an eligible person when they first rented the unit.
- 2. At the time of purchase of an MPDU the Department of Planning and Zoning shall determine the difference in value between the purchase price of the MPDU and the real market value of the MPDU.
- 3. At the time of resale of the MPDU the difference in value under subsection a. above shall be paid to the City based on the following:
- <u>a.</u> <u>No monies shall be owed if the purchaser owns and occupies the Property</u> for at least10 years from the date of purchase of the property.
- b. Upon the sale or transfer of all or any portion of the property within 10 years of purchase of the property, the unit shall remain an MPDU and the seller shall keep the net proceeds.
- B. Restriction on Rent. During the control occupancy period, no MPDU shall be rented except as an MPDU herein defined.

# Sec.20.30.150 Restriction on use of Homeownership Assistance Trust Fund

- A. During the occupancy period, funds used from the Homeownership Assistance Trust Fund to purchase a home shall be repaid as follows:
- 1. Funds shall be repaid in full out of the net proceeds from the sale of the house if the net proceeds are greater than or equal to the sum of the original principal amount of the funds used. The term "net proceeds" means the proceeds from the sale of the Property less the unpaid principal balance of any superior and subordinate non-governmental or private loans.
- 2. A portion of the Homeownership Assistance Trust Fund funds used shall be forgiven if the net proceeds are less than the sum of the original principal amount of the funds used. The amount of the funds to be forgiven may not exceed the original amount provided. The portion of the funds to be forgiven shall equal the original principal amount of the funds multiplied by the number of years the purchaser owned and occupied the house multiplied by the applicable fraction based on the following chart:

Original Principal Amount of Homeownership Assistance Trust Fund Funding	Applicable Fraction
Less than \$15,000	<u>1/5</u>
\$15,000 to \$40,000	<u>1/10</u>
<u>\$40,000</u>	<u>1/1</u>

# Sec. <del>20.32.120</del> 20.30.160 Density Bonus.

- A. An applicant who complies with this chapter shall be entitled to a density bonus for <u>for-sale housing</u> of <u>10%</u> above the maximum amount permitted in a zone, provided that the development complies with all other provisions of Title 21.
- B. An applicant who complies with this chapter shall be entitled to a density bonus for rental housing of 10% above the maximum amount permitted in a zone, provided that the development complies with all other provisions of Title 21.
- C. In order to effectuate the purpose of this chapter stated in Section 20.30.010.E. and in order to ensure that the density bonuses established by subsections A and B above may be realized, the Director of the Department of Planning and Zoning shall allow a tolerance up to twenty percent of the requirements in Title 21 that are applicable to a development entitled to a density bonus which requirements may include, but are not limited to, lot size, yards, height, building bulk, parking and loading.

SECTION II: AND BE IT FURTHER ESTABLISHED AND ORDAINED BY THE ANNAPOLIS CITY COUNCIL that this Ordinance shall take effect from the date of its passage. Seconded.

Planning & Zoning Director Arason was present and answered questions by Council.

◆Alderman Tolliver moved to amend O-7-03 Amendment #2 as follows:

<u>Amendment #1</u> - (deletes requirements of developers of rental property to set aside moderately priced rental units and eliminates permission to rent units developed as moderately priced dwelling units)

On page 2, in line 19, strike "or for rent", and

On page 3, in line 16, strike "and rental", and in line 17, strike "and rent" and

On page 4, in line 33, strike "either" and in line 34 and 35 strike "or is developing rental property", and

On page 5, in lines 7 and 8, strike "or rent" and

On page 5, strike lines 21 through 23 and renumber accordingly, and

On page 5, in line 36, strike "or rent" and

On page 6, strike lines 16 through 17 and renumber accordingly, and

On page 6, in line 21, strike "or rent" and in line 22, strike "or rented", and

On page 6, strike lines 28 through 40 and on page 7, strike lines 12 through 21 in their entirety and renumber accordingly, and

On page 7, in line 24 strike "or maximum rental limits" and in line 25, strike "and twenty(20) years for rental units,",and in line 26, after "initial sale" strike "or rental" and in line 26, after "a sale" strike "or rental", and in line 27, strike "or rental", and in line 28, strike "or rental" and

On page 7, in line 32, strike "rental property," and

On page 9, in line 4, strike "or rent" and

On page 9, strike lines 39 through 40 and renumber accordingly, and

On page 14, in line 28, strike "or Rental" and in line 30, strike "rented or" and in line 33, strike "or rent" and strike line 38 and renumber accordingly, and

On page 15, in line 17, strike "or rent" and in line 28, strike "only rent or" and in line 30, strike "or renter" and in line 31, strike "and renter" and in line 41, strike "or rental" and in line 42, strike "or renter" and in line 42 and 43, strike "or rent" and

On page 16, strike line 1 through 10 in their entirety, and

On page 16, in line 38, strike "except as an MPDU herein defined."

Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen Hammond, Tolliver, Kelley, Cordle

NAYS: Mayor Moyer, Aldermen Fox, Cohen, Alderwomen Hoyle, Carter

**DEFEATED: 5-4** 

◆Alderman Tolliver moved to amend O-7-03 Amendment #2 as follows:

**Amendment #6** (If amendment #1 is not adopted) - [Eliminates redundancy.]

On page 6, strike lines 36 through 40 and on page 7, strike lines 12 through 18 in their entirety and renumber accordingly.

Seconded, CARRIED on voice vote.

◆Alderman Tolliver moved to amend O-7-03 Amendment #2 as follows:

<u>Amendment #7</u> (If amendment #1 is not adopted) [Adds a requirement for renters to supply information to allow Planning and Zoning to verify income annually]

On page 14, after line 3, insert "B. An occupant of a rental MPDU shall submit annually verification of annual household income and any other information that the Department of Planning and Zoning may deem necessary to verify continued eligibility." And in line 5, strike "B" and substitute "C"

Seconded. CARRIED on voice vote.

◆Alderman Tolliver moved to amend O-7-03 Amendment #2 as follows:

<u>Amendment #2</u> - (eliminates ambiguous language, as the text of the legislation provides that special needs populations and the elderly are eligible only if they also meet the low or moderate income criteria)

On page 3, after "residents" in line 34, add "." and strike the balance of line 34 and line 35. Seconded. CARRIED on voice vote.

◆Alderman Tolliver moved to amend O-7-03 Amendment #2 as follows:

<u>Amendment #3</u> - (eliminates the option to redevelop property off-site as an alternative to integrating moderately priced dwelling units in a new subdivision)

On page 10, in line 2, strike "or off the site where the" and strike lines 3 through 5 in their entirety, and

On page 11, strike lines 21 through 23 in their entirety.

Seconded. CARRIED on voice vote.

◆Alderman Tolliver moved to amend O-7-03 Amendment #2 as follows:

<u>Amendment #4</u> - (Increases the fee to be paid by a developer who provides a fee in lieu of payment)

On page 11, in line 27, strike "two" and substitute "four"

Seconded. CARRIED on voice vote.

◆Alderman Tolliver moved to amend O-7-03 Amendment #2 as follows:

<u>Amendment #5</u> - Eliminates the provision allowing non-profit developers to directly use funds in the Homeownership Assistance Trust Fund, allowing instead government agencies to contract with non-profit developers)

On page 12, in line 19, strike "to nonprofit developers or"; and

On page 12, at the end of line 36, add "or" and after line 37 add, "8. Contract with nonprofit developers for development of housing units for sale to eligible low or moderate income buyers.

Seconded. CARRIED on voice vote.

◆Alderman Hammond moved to amend O-7-03 Amendment #2 as follows:

On page 5, line 42, strike "teaches in a preschool"; and after "probationary period, or" add "is a full time teacher in an"

Seconded. CARRIED on voice vote.

◆Alderman Cohen moved to amend O-7-03 Amendment #2 as follows:

On page 11 line 25, strike "either"; On page 11 line 30, following the word "Fund" add "and/"; on page 11 line 35, following "required by this chapter" strike "." and add ", or the combination of the value of land and fee shall be equal to or be greater than the value of the fee in lieu payment required by this chapter." Seconded. CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderwoman Hoyle moved to adopt O-7-03 Amendment #2 amended on third reading. Seconded. A ROLL CALL vote was taken:

YEAS: Mayor Moyer, Aldermen Hammond, Tolliver, Kelley, Fox, Cohen,

Alderwomen Hoyle, Carter

NAYS: Alderman Cordle

CARRIED: 8-1

O-13-04 For the purpose of establishing that all employees and appointees to positions in the City must sign a statement concerning false statements in their resumes or employment applications, that an individual who is found to have made a false statement in their resumes or employment application shall no longer be considered for employment or, if already hired, shall be subject to certain disciplinary action; and matters generally relating to said false statements.

Alderman Cordle moved to adopt O-13-04 on second reading. Seconded.

The Rules and City Government Committee reported favorably on O-13-04.

Alderman Cordle moved to amend O-13-04 as follows:

## Amendment #1 [To correct typos.]

On page 2, in line 32, strike "part-tie" and substitute "part-time"

On page 3 in lines 26 and 32, strike "dismisss" and substitute "dismiss"

Seconded, CARRIED on voice vote.

The main motion as amended CARRIED on voice vote.

Alderman Fox moved to adopt O-13-04 Amended on third reading. Seconded. CARRIED on voice vote.

O-19-04 For the purpose of including the Bembe Beach/Bay Front Drive Property Annexation, Annapolis Business Plaza Condominium/40 and 42 Hudson Street Property Annexation, Arundel Land and Development Co., Inc. Property Annexation and, the Sigma Family Limited partnership Property Annexation within the boundaries of the City land; and matters generally relating to said boundaries.

Alderman Hammond moved to adopt O-19-04 on first reading. Seconded. CARRIED on voice vote.

Alderman Hammond moved to suspend the rules to dispense with the fiscal impact note, the referral to standing committee and third reading on O-19-04. Seconded. CARRIED on voice vote. Seconded. CARRIED on voice vote.

Alderman Hammond moved to adopt O-19-04 on second reading. Seconded. CARRIED on voice vote.

O-20-04 For the purpose of establishing the legal authority for the City to assume erosion and sediment control enforcement authority from the Maryland Department of the Environment, updating the City Code to be consistent with Chapter 26.17.01 of the Code of Maryland Regulations; and matters generally relating to said enforcement authority.

Alderman Hammond moved to adopt O-20-04 on first reading. Seconded. CARRIED on voice vote.

Referred to Economic Matters Committee and the Environmental Matters Committee

#### **RESOLUTIONS**

R-4-04

For the purpose of reclassifying the current Legislative Specialist position in the Office of Law to Legislative and Policy Analyst; and reclassifying the current Recreation Maintenance Worker in the Department of Recreation and Parks Department to Parks Foreman; and all matters relating to said job descriptions, pay grades and reclassification.

Alderman Fox moved to adopt R-4-04 on second reading. Seconded.

Alderman Tolliver moved to amend the position description, Revised Legislative and Policy Analyst Specialist #3 as follows:

REVISED #3

Legislative and Policy Analyst SPECIALIST

Job Class Code:1019 Pay Grade:A14 FLSA: Exempt Updated:01/04

<u>GENERAL STATEMENT OF DUTIES:</u> Performs a wide variety of responsible duties in researching, developing, and drafting policy and legislation at the request of and for the City Council; does related work as required.

<u>DISTINGUISHING FEATURES OF THE CLASS:</u> This is a highly responsible administrative position under the general supervision of the City Attorney that involves a wide range of duties in the researching, developing, and drafting and distributing of legislative material of policy and legislation for the City Council. The incumbent is given wide latitude in the performance of his/her duties and a high level of judgment is necessary with the expectation that good judgement is always exercised in the decision making process. This position is essential to the development and adoption DRAFTING of legislation so that the City may exercise its enabling and operating authorities to a rapidly changing environment AUTHORITY. Work involves a high level of difficulty since policies must be translated into legislation that meets the intent of the City's leadership with minimal directionDETAIL. Maintains a current city code, prepares and publishes council agendas and related materials. KEEPS RECORDS, LOGS, INDICES, AND TRACKS, LEGISLATION. MAINTAINS CONFIDENTIALITY OF COMMUNICATION WITH MEMBERS OF COUNCIL DURING DEVELOPMENT OF LEGISLATION AND PRIOR TO INTRODUCTION.

# **EXAMPLES OF WORK:** (Illustrative only)

Drafts policy and papers for review by the appropriate party LEGISLATION at the request of the City Council; Develops and analyzes policy papers;

Develops, and analyzes and tracks legislation at the request of the City Council and Department Directors;

Upon request Rresearches and analyzes Federal, State, and municipal legislation as part of developing policy papers and legislation;

Resolves Communicates difficult and complex legislative issues in order to present legislation to the City Council;

Makes oral presentations to City Department Directors managers on policies and legislation;

ANSWERS CALLS FROM DEPARTMENT DIRECTORS, OFFICIALS, CITIZENS REGARDING LEGISLATION; DISSEMINATES RECORDS AND ANSWERS INQUIRIES;

# KEEPS RECORDS, LOGS, INDICES, AND TRACKS LEGISLATION.

Requests and oversees SCHEDULES AND PROVIDES STAFF SUPPORT FOR meetings among City Council, Citizens, Department Directors AS REQUESTED BY THE CITY COUNCIL in order to seek a decision making process; Organizes and conducts decision making meetings with City Mayor, Council, managers, and citizens.

Develops decision and issue papers FOR THE CITY COUNCIL AT THEIR REQUEST for Mayor and department directors;

Develops and presents COORDINATES THE DEVELOPMENT OF staff papers BY DEPARTMENT DIRECTORS AND OTHER STAFF AT THE REQUEST OF THE CITY COUNCIL; including costs and benefits of proposed changes; Writes press releases;

Creates letters and other correspondence for departmental distribution, citizenry, elected officials, and other levels of government;

# Maintains and manages agreements and leases;

Updates the City Charter and Code electronically using specialized software packages; Updates City ordinances, resolutions, and Council agendas on the City's website; Maintains a variety of electronic and paper files;

Updates legislation electronically;

Distributes legislation and staff papers.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Thorough knowledge of the legislative process in a municipality or similar government entity; ABILITY TO DRAFT LEGISLATION FOR A MUNICIPAL GOVERNMENT IN CONFORMANCE WITH MARYLAND LAW; KNOWLEDGE OF ABILITY TO UNDERSTAND, INTERPRET, AND CONFORM TO PROVISIONS OF LAW, INCLUDING THE CITY CODE AND MARYLAND CODE: KNOWLEDGE OF STATE REQUIREMENTS REGARDING OPEN MEETINGS. EXPRESS POWERS, MUNICIPAL LEGISLATIVE AND FISCAL AUTHORITIES AND LIMITATIONS, AND REQUIRED RECORD-KEEPING; thorough knowledge of the principles and practices of public administration; ability to prepare oral and written reports; ability to effectively communicate orally and in writing; ability to establish and maintain effective working relationships; good judgement; a high level of personal computer literacy with spreadsheets, word processing, and e-mail; ability to develop and to follow complex oral and written instructions; ability to effectively present ideas, policies, and legislation orally and in writing; ability to deal effectively with the City Council, general public, members of the bar, applicants before the City Council and senior government officials at Federal, State, and local levels; good judgment and tact; and ability to work within time constraints associated with Council agenda deadlines.

**ACCEPTABLE EXPERIENCE AND TRAINING:** Considerably progressive and extensive experience in researching, developing, and drafting policy and legislation in the public sector; a bachelor's degree or a combination of experience and training that provides the required knowledge, skill, and abilities; and an advanced level of software competency including spreadsheets, word processing, and e-mail.

# **AMERICANS WITH DISABILITIES ACT:**

<u>Physical ability:</u> Ability to sit at a personal computer work station for extended periods; ability to operate standard office equipment including personal computer, copier, fax machine, calculator, etc; ability to reach into file drawers in standard five-drawer filing cabinets. <u>Visual ability:</u> Sufficient to effectively operate office equipment including personal computer,

copier, etc; to read and write reports, correspondence, instructions, etc. Hearing ability: Sufficient to hold conversation with other individuals both in person and on

a telephone; ability: Sufficient to communicate effectively with other individuals in person and

<u>Speaking ability</u>: Sufficient to communicate effectively with other individuals in person and over a telephone.

Mental: Freedom from mental disorders which would interfere with performance of duties as described. Seconded. A ROLL CALL vote was taken:

YEAS: Aldermen Hammond, Tolliver, Cordle

NAYS: Mayor Moyer, Aldermen Fox, Cohen, Alderwomen Hoyle, Carter

ABSTAIN: Alderman Kelley

DEFEATED: 5-3-1

Alderman Fox moved to amend the position description, Revised Legislative and Policy Analyst Specialist #2 as follows:

REVISED #2

# **Legislative and Policy Analyst**

Job Class Code:1019 Pay Grade:A14 FLSA: Exempt Updated:01/04

**GENERAL STATEMENT OF DUTIES:** Performs a wide variety of responsible duties in researching, developing, and drafting policy and legislation at the request of and for the City Council; does related work as required.

<u>DISTINGUISHING FEATURES OF THE CLASS:</u> This is a highly responsible administrative position under the general supervision of the City Attorney that involves a wide range of duties in the researching, developing, and drafting and distributing of legislative material of policy and legislation for the City Council. The incumbent is given wide latitude in the performance of his/her duties and a high level of judgment is necessary with the expectation that good judgement is always exercised in the decision making process. This position is essential to the development and adoption of legislation so that the City may exercise its enabling and operating authorities to a rapidly changing environment. Work involves a high level of difficulty since policies must be translated into legislation that meets the intent of the City's leadership with minimal direction. Maintains a current city code, prepares and publishes council agendas and related materials.

#### **EXAMPLES OF WORK:** (Illustrative only)

Drafts policy and papers for review by the appropriate party at the request of the City Council; Develops and analyzes policy papers;

Develops, and analyzes and tracks legislation at the request of the City Council and Department Directors;

**Upon request** Rresearches and analyzes Federal, State, and municipal legislation as part of developing policy papers and legislation;

Resolves Communicates difficult and complex legislative issues in order to present legislation to the City Council;

Makes oral presentations to City **Department Directors** managers on policies and legislation;

Requests and oversees meetings among City Council, Citizens, Department Directors in order to seek a decision making process; Organizes and conducts decision making meetings with City Mayor, Council, managers, and citizens;

Develops decision and issue papers for Mayor and department directors;

Develops and presents staff papers; including costs and benefits of proposed changes; Writes press releases;

Creates letters and other correspondence for departmental distribution, citizenry, elected officials, and other levels of government;

# Maintains and manages agreements and leases;

Updates the City Charter and Code electronically using specialized software packages; Updates City ordinances, resolutions, and Council agendas on the City's website; Maintains a variety of electronic and paper files;

Updates legislation electronically;

Distributes legislation and staff papers.

REQUIRED KNOWLEDGE, SKILLS AND ABILITIES: Thorough knowledge of the legislative process in a municipality or similar government entity; thorough knowledge of the principles and practices of public administration; ability to prepare oral and written reports; ability to effectively communicate orally and in writing; ability to establish and maintain effective working relationships; good judgement; a high level of personal computer literacy with spreadsheets, word processing, and e-mail; ability to develop and to follow complex oral and written instructions; ability to effectively present ideas, policies, and legislation orally and in writing; ability to deal effectively with the City Council, general public, members of the bar, applicants before the City Council and senior government officials at Federal, State, and local levels; good judgment and tact; and ability to work within time constraints associated with Council agenda deadlines.

**ACCEPTABLE EXPERIENCE AND TRAINING:** Considerably progressive and extensive experience in researching, developing, and drafting policy and legislation in the public sector; a bachelor's degree or a combination of experience and training that provides the required knowledge, skill, and abilities; and an advanced level of software competency including spreadsheets, word processing, and e-mail.

#### **AMERICANS WITH DISABILITIES ACT:**

<u>Physical ability:</u> Ability to sit at a personal computer work station for extended periods; ability to operate standard office equipment including personal computer, copier, fax machine, calculator, etc; ability to reach into file drawers in standard five-drawer filing cabinets.

<u>Visual ability:</u> Sufficient to effectively operate office equipment including personal computer, copier, etc; to read and write reports, correspondence, instructions, etc.

<u>Hearing ability</u>: Sufficient to hold conversation with other individuals both in person and on a telephone; ability to hear recording on transcription device.

<u>Speaking ability</u>: Sufficient to communicate effectively with other individuals in person and over a telephone.

<u>Mental:</u> Freedom from mental disorders which would interfere with performance of duties as described.

Seconded. CARRIED on voice vote.

The main motion and Revised Legislative and Policy Analyst Specialist #2 CARRIED on voice vote.

R-10-04 For the purpose of recognizing former Truxtun Park Pool Manager Kenneth B. Dunn for his years of service to the citizens of the City of Annapolis; and all matters relating to said recognition.

Alderman Cohen moved to adopt R-10-04 on second reading. Seconded. CARRIED on voice vote.

R-11-04 For the purpose of naming the new recreation center to be built in Truxtun Park in honor of Roger W. "Pip" Moyer; and matters generally relating to said recreation center naming.

Alderwoman Carter moved to adopt R-11-04 on first reading. Seconded. CARRIED on voice vote.

Alderwoman Carter moved to suspend the rules to allow passage of the resolution at the meeting of its introduction. Seconded. CARRIED on voice vote.

Alderman Cohen moved to adopt R-11-04 on second reading. Seconded. CARRIED on voice vote.

#### **BUSINESS AND MISCELLANEOUS**

Finance Committee Meeting Recommendations dated May 20, 2004

Alderman Fox moved to receive the Finance Committee Recommendations dated May 20, 2004. Seconded. CARRIED on voice vote.

Payment of Monthly Bills

Alderman Hammond moved to pay the monthly bills. Seconded. CARRIED on voice vote.

Appointments

Alderman Hammond moved to approve the Mayor's (re)appointments of the following individuals:

6/9/04 Alcoholic Beverage Control Board	Joseph J. Ball
6/9/04 Annapolis Conservancy Board	James F. Baldwin
6/9/04 Environmental Commission	Burrell Vincent
6/9/04 Environmental Commission	Evan Belaga
6/9/04 Environmental Commission	Darlene Pisani
6/9/04 Human Relations Commission	Theresa King
6/9/04 Human Relations Commission	Rosa L. Snowden
6/9/04 Planning Commission	. David M. DiQuinzio
6/9/04 Recreation Advisory Board	Frank Holston
6/9/04 Transportation Advisory Board	Michael Duplechain

Seconded. CARRIED on voice vote.

Annual Towing License Renewals

Alderman Hammond moved to approve the renewal of the towing licenses for Lowery's Forest Drive Services and Mason's Towing. Seconded. CARRIED on voice vote.

Upon motion duly made, seconded and adopted, the meeting was adjourned at 9:59 p.m.

Deborah Heinbuch, MMC City Clerk